



STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

May 23, 2022

REVIEW OF NOMINATING PETITION

BRIAN JACKSON
Nonpartisan Candidate for 54A District Court, Incumbent Position

NUMBER OF VALID SIGNATURES REQUIRED: 600 signatures.

TOTAL FILING: 898 signatures.

RESULT OF FACE REVIEW: 844 valid signatures, 54 invalid signatures.

Total number of signatures filed		898
Not registered	<i>Less:</i>	0
Jurisdiction errors (no city in county known by name given by signer, dual jurisdiction entry, jurisdiction name given by signer does not align with address)	<i>Less:</i>	31
Date errors (no date given by signer, date of birth entered, or date given by signer is later than circulator's date of signing)	<i>Less:</i>	22
Address errors (no street address or rural route given)	<i>Less:</i>	1
Miscellaneous errors (signatures of dubious authenticity where the petition signature does not match the signature on file or multiple signatures appear to have been written by the same individual, etc.)	<i>Less:</i>	0
TOTAL		844

In total, staff's review of Mr. Jackson's petition sheets identified 54 invalid signatures and 844 facially valid signatures.

CHALLENGE: M. Anthony Flores and Kristen D. Simmons filed challenges against Mr. Jackson which alleges a series of deficiencies. First, Mr. Flores and Ms. Simmons challenged incumbency label on petition sheets submitted by Mr. Jackson. Specifically, Mr. Flores and Ms. Simmons allege that petition sheets should be rejected because the petition sheets identified the office sought by Mr. Jackson as a non-incumbent position, while the office became an incumbent position on the same day that Mr. Jackson submitted his nomination petitions. Specifically, Mr. Jackson submitted his nomination petition on April 18 and all of his petition's signatures were collected on or before April 18. April 18 was also the date on which a new judge was sworn in to fill the vacancy in the office sought by Mr. Jackson. The judge filed an affidavit of candidacy the same day.

Staff recommends that the Board reject this challenge. When an open seat is filled by appointment during the filing or petition-gathering period, the Michigan Department of State accept affidavits of identity on dates *prior* to the date the position is filled only if the affidavit identifies the position as *non-incumbent*. The Department accepts affidavits of identity starting on the day *after* the position is filled only if the affidavit identifies the period as *incumbent*. If an affidavit is filed the *same* date the position is filled, the Department accepts an affidavit identifying the position as *either* incumbent or non-incumbent.¹

Staff recommends the Board treat nominating petitions in the same manner. As a practical matter, even if the candidate knew that the position had been filled on that same date, it is not possible to determine the exact time the candidate collected and submitted nominating petitions relative to when the incumbent officeholder is sworn into office. Because Mr. Jackson collected his nominating petitions on or before the same day as the appointment, and filed his nominating petitions the same day as the appointment, staff recommends that this aspect of the challenge be rejected.

Second, the challengers allege that Mr. Jackson did not seek a statement of office designation for petitions. However, the Bureau of Elections memo that challengers include in Tab 6 of their challenge states that the statement of office requirement is met by the chart provided by the Bureau in that memo. Staff recommends rejecting this challenge.

Third, the challengers allege that Mr. Jackson used the incorrect typeface size on his petition. Staff review, using a font ruler, determined that the county, city, and primary election date were printed in a 12-point font. MCL 168.544c requires that specified items be printed in 24-point and 12-point boldface type, and that “The balance of the petition must be printed in 8-point type. The name, address, and party affiliation of the candidate and the office for which petitions are signed must be printed in type not larger than 24-point.” However, the 8-point font requirement is a minimum size limit (for certain elements, an upper size limit is established). The rationale for the lower limit is to ensure signers can read the information. Here, a 12-point font for filled-in information is not disqualifying. Staff recommends rejecting this challenge.

Finally, Mr. Flores and Ms. Simmons challenged 417 signatures. Challengers claim that the dates had been altered for 31 signatures, that city designation has been altered for 22 signatures, and that 364 signatures were invalid for other reasons. Upon review, however, staff determined that that 214 of the 417 challenged signatures were challenges to signature lines that had been crossed off on the nominating petitions prior to the petitions’ submission to staff. Because those 214 crossed out lines would not have been included in Mr. Jackson’s total signature count, the actual number of signatures challenged by Mr. Flores and Ms. Simmons was 203. Because the 203 signatures were below Mr. Jackson’s 244 signature “cushion,” staff did not process the challenge.

STAFF RECOMMENDATION: Determine petition sufficient.

¹ Affidavit of Identity validity determinations are made by the Michigan Department of State, not the Board of State Canvassers, but this explanation is provided for the Board’s information. For the reasons described in this report, the Department of State did not disqualify Mr. Jackson on the basis of the incumbency designation he included on the Affidavit of Identity he filed on April 18. Mr. Jackson also submitted a subsequent Affidavit on April 19, identifying the position he sought as an incumbent position (at the Bureau’s recommendation). Mr. Jackson did not check the citizenship box on the April 19 Affidavit. While this omission rendered the April 19 Affidavit invalid, because Mr. Jackson’s April 18 Affidavit was valid and complete, Mr. Jackson did not need to submit a new Affidavit on April 19. Because staff considers the April 18 Affidavit to be Mr. Jackson’s official submission, the insufficiency of Mr. Jackson’s April 19 Affidavit has no effect on Mr. Jackson’s eligibility to appear on the ballot.